CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL CHENNAI

Regional Bench – Court No. III

Service Tax Appeal No. 41045 of 2013

(Arising out of Order-in-Appeal No. 23/2013-ST dated 31.01.2013 passed by the Commissioner of Customs and Central Excise (Appeals), No.1, Foulks Compound, Anai Medu, Salem – 636 001)

M/s. Mukesh & Associates, : **Appellant**
2/6 Ranganathar Avenue,
Perumal Malai Road,
Narasothipatti, Salem – 636 004

VERSUS

The Commissioner of G.S.T. & Central Excise, **: Respondent**
Salem Commissionerate
No.1, Foulks Compound, Anai Medu,
Salem – 636 001

APPEARANCE:
Ms. P. Jayalakshmi, Advocate for the Appellant

Ms. T. Usha Devi, Authorized Representative for the Respondent

CORAM:
HON'BLE MS. SULEKHA BEEVI C.S., MEMBER (JUDICIAL)
HON'BLE MR. MADHU MOHAN DAMODHAR, MEMBER(TECHNICAL)

FINAL ORDER NO. 40626 / 2019

DATE OF HEARING: 29.03.2019

DATE OF DECISION: 29.03.2019

PER BENCH :

Brief facts are that the appellants were issued a Show Cause Notice alleging that they have not included the reimbursable expenses in the total taxable value while discharging their service tax liability.

2. Today when the matter came up for hearing, Ld. Advocate Ms. P. Jayalakshmi appearing on behalf of the appellant submitted that the issue whether reimbursable expenses are includible in the total taxable value has been decided by the Hon'ble Apex Court in the case of ***Union of India Vs. M/s. Intercontinental Consultants and Technocrats Pvt. Ltd.***

reported in 2018 (10) G.S.T.L. 401 (S.C.)**.* which was relied upon by the Tribunal in the appellant's own case in ***Final Order Nos. 40801-40804/2018 dated 15.03.2018.

3. On the other hand, Ld. AR Ms. T. Usha Devi appearing on behalf of the respondent supported the findings in the impugned Order.

4. After hearing both sides and on perusal of records, we are convinced that the issue is with regard to the non-inclusion of reimbursable expenses by the appellant in the total taxable value while paying service tax for the various projects undertaken by them. On perusal of the Show Cause Notice, it is seen that the demand has indeed been made on the non-inclusion of reimbursable expenses.

5. The Hon'ble Apex Court in the case of *M/s. Intercontinental Consultants and Technocrats Pvt. Ltd. (supra)* has held that the said expenses are not includible in the taxable value. The Tribunal in the appellant's own case *(supra)* has applied the same ratio and held that the demand would not sustain. Following these decisions, we are of the considered opinion that the demand cannot sustain. The impugned Order is set aside.

6. The appeal is allowed with consequential reliefs, if any, as per law.

(Dictated and pronounced in open court)

(SULEKHA BEEVI C.S.)
MEMBER (JUDICIAL)

(MADHU MOHAN DAMODHAR)
MEMBER (TECHNICAL)

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